IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Letters Patent Appeal No.281/2007 in Writ Petition No. 3507/1998 (Decided)

[M/s. Nag Drug Agencies and others .vrs. Sumita Devi Deshraj Grover through L.Rs.]

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's order

CORAM : K.J. ROHEE AND
R.C. CHAVAN, JJ
DATED : NOVEMBER 23, 2007

1. Heard Mr. R.K. Deshpande, Advocate for the appellants and Mr. Subhash Grover (Respondent no.5) for all the respondents.

2. Way back in 1986, one Avinash Kumar s/o Deshraj Grover instituted suit for eviction against the appellants after obtaining permission to issue quit notice from the competent authority. The said suit was decided on 4.11.1997 by the Small

Causes Court. The appellate Court confirmed the decree on 11.9.1998. Thereafter the appellants challenged the judgment of the Appellate Court by way of Writ Petition No.3507/1998 on 10.11.1998. By elaborate judgment dated 26.9.2007, the learned Single Judge dismissed the writ petition by disallowing all the contentions raised on behalf of the appellants.

3. It was urged by Mr. R.K. Deshpande, the learned counsel for the appellants, that the landlord did not adduce evidence in support of his pleading and there was breach of the provision of Order XVIII Rule 2 of the Code of Civil Procedure. Secondly, the person holding power of attorney was examined on behalf of the landlord. In fact, the holder of power of attorney cannot act as principal and as such his evidence should not have been

accepted. These aspects have been properly dealt with by the learned Single Judge. We are satisfied that there is no force in the contention raised on behalf of the appellants. We find that the order of the learned Single Judge is perfectly legal. Hence, we are not inclined to entertain the Letters Patent Appeal. The same is, therefore, dismissed.

4. The appellants may move separate application for withdrawal of the amount deposited by them in pursuance of the order passed by this Court on 16.10.2007 while granting ad-interim ex-parte stay in terms of prayer clause (1) in Civil Application No.7393 of 2007.

JUDGE **JUDGE**

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